

Message Text

CONFIDENTIAL

PAGE 01 LIMA 03775 252325Z

64

ACTION ARA-10

INFO OCT-01 ISO-00 L-03 TRSE-00 EB-07 SP-02 SS-15 NSC-05

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FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 9884

C O N F I D E N T I A L LIMA 3775

FOR ARA - MR. WILLIAN ROGERS; L - MR. LEIGH; L/ARA - MR. KOZAK;
TREASURY - MR. BUSHNELL; EB - MR. GREENWALD; S/P - MR. LORD

EO 11652: GDS

TAGS: EINV, EIND, EMIN, PFOR, PE

SUBJECT: MARCONA - TEXT OF PROPOSED EXCHANGE OF NOTES

FOLLOWING ARE THE TEXTS OF THE PROPOSED EXCHANGE OF NOTES BETWEEN
THE GOVERNMENT OF PERU AND THE GOVERNMENT OF THE UNITED STATES:

A. TEXT OF NOTE FROM THE GOVERNMENT OF PERU

I HAVE THE HONOR TO REFER TO THE JOINT COMMUNIQUE
OF MAY 5, 1976 RELATING TO THE SETTLEMENT OF THE NATIONALIZATION OF
THE MINING AND METALLURGICAL COMPLEX OF THE MARCONA MINING
COMPANY IN PERU.

I HAVE THE FURTHER HONOR TO STATE THAT AS OF THAT DATE, THE
GOVERNMENT OF PERU DECLARES THAT THERE NO LONGER EXIST ANY
LIABILITIES FOR THE PAYMENT OF TAXES, OR OTHER CHARGES OR
OBLIGATIONS, OR LEGAL ACTIONS, CIVIL OR OTHERWISE, AGAINST THE
MARCONA CORPORATION OR ITS SUBSIDIARIES, BRANCHES OR AFFILIATES,
INCLUDING THE MARCONA MINING COMPANY, OR AGAINST THE PRESENT OR
FORMER OFFICIALS OF ANY OF THEM, REGARDING THEIR ACTIVITIES AS
EMPLOYEES OF MARCONA CORPORATION, ITS SUBSIDIARIES, BRANCHES,
OR AFFILIATES, PRIOR TO THE CONCLUSION OF THE AGREEMENT. NOR
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PAGE 02 LIMA 03775 252325Z

WILL ANY CLAIMS OR PROCEEDINGS BASED ON SUCH TAXES, CHARGES,

OBLIGATIONS, OR LEGAL ACTIONS AFFECTING THE NATURAL OR JURIDICAL PERSONS REFERRED TO ABOVE BE ASSERTED, CONTINUED OR ENFORCED IN THE FUTURE.

I FURTHER PROPOSE THAT AFTER THIS DATE, NEITHER GOVERNMENT WILL PRESENT TO THE OTHER, ON ITS BEHALF OR ON BEHALF OF ANOTHER, ANY CLAIM OR DEMAND ARISING OUT OF THE NATIONALIZATION BY THE GOVERNMENT OF PERU OF MARCONA MINING COMPANY'S MINING-METALLURGICAL COMPLEX IN PERU OR OF THE OPERATIONS OF THE MARCONA MINING COMPANY OR ITS SUCCESSOR IN PERU AS OF THE DATE OF THIS AGREEMENT. IN THE EVENT THAT SUCH CLAIMS ARE PRESENTED DIRECTLY BY NATIONALS OF ONE COUNTRY TO THE GOVERNMENT OF THE OTHER, SUCH GOVERNMENT WILL REFER THEM TO THE GOVERNMENT OF THE NATIONAL CONCERNED.

I ALSO WISH TO AFFIRM THAT IN ACCORDANCE WITH ARTICLE 12 OF DECREE LAW 21228, HIERRO PERU HAS ASSUMED, BY SUBROGATION, THE OUTSTANDING OBLIGATIONS OF THE PERUVIAN BRANCH OF THE MARCONA MINING COMPANY TO SUPPLIERS AND LENDING INSTITUTIONS, AS WELL AS THE SALARIES AND SOCIAL BENEFITS OF ITS EMPLOYEES.

FINALLY, I HAVE THE HONOR TO PROPOSE THAT THIS NOTE, WITH OUR NOTE IN REPLY CONFIRMING THAT THE GOVERNMENT OF THE UNITED STATES CONCURS IN THE UNDERSTANDINGS AND UNDERTAKINGS RELATED ABOVE, CONSTITUTE AN INTERNATIONAL AGREEMENT BETWEEN OUR TWO NATIONS.

B. TEXT OF NOTE FROM THE UNITED STATES

I HAVE THE HONOR TO REFER TO YOUR NOTE NO. OF MAY 5, 1976 RELATING TO THE NATIONALIZATION OF THE MARCONA MINING COMPANY, WHICH READS AS FOLLOWS:

(TEXT)

I HAVE THE FURTHER HONOR TO INFORM YOU THAT THE GOVERNMENT OF THE UNITED STATES OF AMERICAN CONCURS IN THE UNDERSTANDINGS AND UNDERTAKINGS RELATED THEREIN, AND AGREES THAT THIS NOTE AND THE NOTE OF THE GOVERNMENT OF PERU CONSITITUTE AN INTERNATIONAL AGREEMENT BETWEEN OUR TWO NATIONS.

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